IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2112 of 2003

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ACCOUNTANT, MOOLJIBHAI MATHURBHAI8 & SONS

Versus

ASST. PROVIDNET FUND COMMISSIONER

Appearance:

MR HASMUKH THAKKER for Petitioner No. 1

MR BHARAT T RAO for Respondent No. 1-4

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 17/03/2003

ORAL JUDGEMENT

1. Rule. Mr. B.T. Rao, learned Advocate waives service for the respondents.

2. Heard the learned counsel for the respective parties. The present petition is filed challenging the order bearing No.GJ/10676/Recovery/AHD/2034 dated 27th February 2003. This Court, while issuing notice on 6th March 2003, directed the petitioner to deposit the amount

ordered in the order under challenge. Mr. Mr. Hasmukh Thakker, learned advocate appearing for the petitioner, makes a statement that the amount is deposited. Mr. B.T. Rao, learned counsel for the respondents, confirms the same.

3. The case of the petitioner is that he did not get an opportunity to represent his case in the inquiry under section 7-A of the Employees Provident Fund and Misc. Provisions Act, 1952. It is also stated that a review application is filed under section 7-B, wherein the order is awaited, but in the meantime petitioner apprehends coercive steps being taken for the recovery, and that is why he is constrained to approach this Court.

3. In the facts and circumstances of the case and in view of the fact that the full amount ordered is deposited, the present petition requires to be allowed. Accordingly the present petition is allowed without prejudice to the rights and contentions of the parties. The order under challenge is quashed and set aside. The authorities are directed to hold an inquiry under section 7-A of the Act de novo. Rule is made absolute with no order as to costs.

[RAVI R. TRIPATHI J.]
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